

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

VISIBLE SYSTEMS CORPORATION,

Plaintiff

v.

UNISYS CORPORATION,

Defendant

Civil Action No. 04-CV-11610-RGS

**ASSENTED-TO MOTION FOR LEAVE TO FILE MEMORANDUM  
OF LAW IN EXCESS OF TWENTY PAGES**

Pursuant to Local Rule 7.1(B)(4), the defendant, Unisys Corporation (“Unisys”), hereby moves for leave to file memoranda of up to 35 pages in support of its Motion for Summary Judgment in this matter, due to be filed by November 10, 2006. The plaintiff, Visible Systems Corporation (“VSC”), has indicated that it assents to this request, provided that plaintiff is likewise permitted up to 35 pages for its opposition memorandum. As grounds for this request, Unisys states as follows:

This is a trademark infringement case involving the right of Unisys to use the phrase 3D VISIBLE ENTERPRISE in connection with its information technology-based consulting services. VSC, a Lexington, Massachusetts software company, uses the word VISIBLE in the name of its company and a number of its software products.

VSC asserts in its complaint claims of trademark infringement under 15 U.S.C. § 1114 and Massachusetts common law, and unfair competition under 15 U.S.C. § 1125(a) and Mass. Gen. L. ch. 93A. VSC also makes a claim of trademark dilution under 15 U.S.C. § 1125(c) and Mass. Gen. L. ch. 110B, § 12. VSC seeks injunctive and other equitable relief barring Unisys



from using 3D VISIBLE ENTERPRISE as a trademark. It also seeks damages in the form of alleged lost sales, and seeks to have Unisys “account for and pay over... all gains, profits and advantages derived” from the alleged infringement. Finally, VSC asserts a separate claim seeking a declaration that Unisys’s 3D VISIBLE ENTERPRISE mark may not be registered as a federal trademark.

Unisys intends to file a motion for summary judgment seeking dismissal of VSC’s claims. The present deadline for such motions is November 10, 2006. The portion of the motion addressed to VSC’s central trademark-infringement claims requires that Unisys address a number of issues in its supporting memorandum, including (a) whether and to what extent VSC may have a valid and protectible trademark; (b) whether Unisys’s mark creates a likelihood of confusion, mistake or deception among relevant consumers; and (c) whether VSC would be entitled to monetary relief under any circumstances. The resolution of each of these issues involves consideration of multiple legal factors and the detailed discovery record developed in this case. Unisys must also address the elements of VSC’s other federal and state-law claims.

While Unisys naturally recognizes the desirability of making its arguments as briefly and concisely as the subject matter allows, counsel’s best current estimate is that up to 35 pages may be necessary to permit the memoranda to fairly address the necessary matters. (As required by Local Rule 56.1, Unisys’s statement of the undisputed material facts pertinent to the motion for summary judgment will be included with the motion itself, and not in the memorandum.)

WHEREFORE, Unisys respectfully requests that this Court grant it leave to file a memorandum of law in support of its Motion for Summary Judgment of up to 35 pages. As noted, VSC has indicated that it assents to this request, provided that it is likewise permitted up



to 35 pages for its opposition memorandum. Therefore, Unisys respectfully requests that the Court's order so provide.

**Dated: November 8, 2006**

Defendant,  
UNISYS CORPORATION,  
By Its Attorneys,

/s/ Matthew C. Welnicki

Anthony M. Doniger, BBO No. 129420 (doniger@srbc.com)  
William L. Boesch, BBO No. 558742 (boesch@srbc.com)  
Matthew C. Welnicki, BBO No. 647104 (Welnicki@srbc.com)  
SUGARMAN, ROGERS, BARSHAK & COHEN, P.C.  
101 Merrimac Street  
Boston, MA 02114  
617-227-3030

Assented to

Plaintiff,  
VISIBLE SYSTEMS CORPORATION,

By Its Attorneys,

/s/ Stephen H. Galebach

Stephen H. Galebach, BBO No. 653006 (galebach@comcast.net)  
Joseph E. Rendini, BBO No. 542746  
9-11 Touro Avenue  
Medford, MA 02155  
781-874-3922

CERTIFICATE OF SERVICE

I hereby certify that this document is being filed through the ECF system, and that I am therefore relying on the system to complete service by sending copies of the filing electronically to the necessary counsel, who are registered participants.

/s/ Matthew C. Welnicki

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